

**Windham, New Hampshire
Planning Board Rules of Procedure**

Pursuant to RSA 676:1, the Windham, New Hampshire Planning Board adopts the following Rules of Procedure.

Article 1 - Title; Adoption; Amendment; Waivers

- 1.1 These Rules may be cited as the Windham Planning Board (Board) Rules of Procedure.
- 1.2 These Rules shall be adopted following a public hearing by the Board. The hearing shall be noticed by a legal notice published not less than seven (7) days prior to the hearing and said notice shall contain a summary of the provisions herein, together with the notation that the full text is available upon request.
- 1.3 The rules shall be effective upon adoption by a majority of the Board and when they have been signed by a majority of the Board and filed with the office of the Town Clerk.
- 1.4 These rules may be amended at any regular meeting by a majority vote of the Board provided that such amendment is read at a regular meeting of the Board immediately preceding the meeting at which the vote is to be taken.
- 1.5 The Board may vote to waive any sections of these rules for good cause shown. The justification for such action shall be stated and noted in the minutes.

Article 2 - Membership; Terms of Office; Officers; Vacancies

- 2.1 Pursuant to RSA 673:2, the Board shall consist of seven (7) members; six (6) of whom shall be elected by the legislative body and the seventh member shall be an ex-officio member appointed by the Board of Selectmen.
- 2.2 Except for the Selectmen's member representative, members shall be elected in staggered terms pursuant to RSA 673:5 of one (1) year, two (2) year, and three (3) year terms. The membership of the Board shall be elected in such a manner so that two (2) members shall be elected each year.
- 2.3 A term of office shall commence after the Board member has been sworn in, provided however, that term shall continue until a successor has been appointed or elected and sworn in.
- 2.4 The Board shall elect the following officers from its members, provided however, that the Selectmen's ex officio member shall not hold any office: Chair and Vice Chair.
- 2.5 Officers shall be elected individually for a one (1) year term at the first regular meeting following election by the legislative body.

- 2.6 Pursuant to RSA 673:12, vacancies in the membership of a local land use board occurring other than through the expiration of a term of office shall be filled as follows: For an elected member, by appointment by the remaining board members until the next regular municipal election at which time a successor shall be elected to either fill the unexpired term or start a new term, as appropriate.
- 2.7 The Board may appoint up to four (4) alternates who shall be appointed to three (3) year terms. The appointments of alternates shall be staggered as per RSA 673:5, II, III, and 673:6. The Selectmen shall appoint an alternate to the ex-officio member and only that alternate may sit for the ex-officio member and for no other member.

Article 3 – Roles & Responsibilities; Minutes & Records

- 3.1 CHAIR: The Chair shall preside over meetings and shall be responsible for conduct and decorum of the meeting. The Chair shall have the responsibility to ensure that all parties receive a full and fair hearing before the Board and to enforce the rules herein and applicable State laws. The Chair, with Board authorization, will be the spokesperson on behalf of the Planning Board with other municipal boards, the public, and media. The Chair communicates regularly with the planning clerk and works with them on setting the meeting agendas and other Board organizational activities.
- 3.2 VICE CHAIR: The Vice-Chair shall preside over meetings and assume the duties of Chair in the absence of the Chair. At public hearings, the Vice Chair shall read the official hearing notification into the record
- 3.3 ALTERNATES: The Chair will appoint Alternate members to sit in place of regular members if they are absent or have removed themselves from hearing an application. When this occurs, the Alternate Member will have full participation and voting rights as a regular member.

The Clerk, or their designee, will maintain a record of the designation of Alternate Members as voting members to assist the Chair in ensuring an even rotation of Alternate Members.

Alternate members who are not appointed by the Chair to fill the seat of an absent or recused member may fully participate, with the exception that they may not make or second motions, vote or participate in discussions on the motion.

Alternate members are expected to attend meetings on a regular basis. If more than 50% of the meetings are missed in a 6 month timeframe, the Board may take action under NH RSA 673:13, after having provided a two (2) week notice of the hearing and having contemporaneously sent a notice to the alternate member

- 3.4. CLERK: The Community Development Director, Community Planner, or their designee shall function as the clerk for the Board. The Clerk shall administer official correspondence, subject to these rules and at the direction of the Board; shall issue the proper forms, compile all information, maps, and records for the Board's review; shall send all notices required by law; shall keep the minutes of all Board actions

and proceedings; shall prepare reports and perform other duties as directed by the Board; and shall keep records of its examinations and other official actions.

The Clerk, in consultation with the Chair, shall prepare the agenda for each meeting, provide all supportive documentation, and make said materials available to each Board member by the Friday in advance of each meeting. The Clerk shall also make public notice of the agenda of each meeting in accordance with the appropriate regulations. Any Board member may request and have placed on the agenda any item for discussion.

- 3.5 MINUTES: Minutes of the Board meetings shall be kept by the Clerk in accordance with the provisions of RSA 91-A and Section 3.4 of these Rules of Procedure. Minutes shall be considered a summary of events and business transacted once adopted by the Board with any amendments made.

The Clerk shall ensure that minutes are made available to the public in accordance with RSA 91-A. Draft minutes are posted at the Town Hall and the Community Development Department per RSA 91-A:2(II).

Draft minutes and revised draft minutes will be provided to the Board members for review. Board members may offer, by email to the full Board and Clerk, any amendments/corrections that they will be proposing at a public meeting. The Clerk will make such emails available for public review. Discussions on the draft minutes or revised draft minutes on the proposed amendments/corrections will only take place at a public meeting.

- 3.6 RECORDINGS Audio/video recordings made by members of the public are not required to be archived by the Department, unless they are submitted as part of a case file, in which case they will be kept in accordance with NH RSA 91-A.

Article 4 - Meetings; Special Meetings; Place; Hours

- 4.1 The Board regularly holds meetings on the first and third Wednesdays of each month, except that the Board may vote to amend their meeting schedule as the need arises. Meeting agendas are posted at the Town Hall and the Community Development Department in accordance with RSA 91-A.

Hearing notices are posted at the Town Hall, in the Community Development Department, and in a newspaper of general circulation 10 days prior to the public hearing.

An effort will be made to post agendas and hearing notices on the Town's web site within the same timeframe listed previously.

- 4.2 Special meetings of the Board may be held at the call of the Chair or by request of a majority of the Board members. These meetings will be posted in accordance with NH RSA 91-A.
- 4.3 Regular or special meetings of the Board may be recessed to a time and place certain as a continuation of said meeting without further notice as long as the time and place are announced in the meeting.

- 4.4 All meetings of the Board shall be held in the Community Development Department building unless posted or noticed otherwise.
- 4.5 Regular meetings of the Board shall commence at 7:00 PM unless the Board shall vote to fix some different meeting time for a particular meeting.
- 4.6 The Board shall not commence any public hearings later than 10:00 PM, provided that the Board may continue to conclude the public hearing of any item of business that commenced prior to that hour.
- 4.7 Nonpublic sessions shall be held only in accordance with RSA 91-A:3

Article 5 - Quorums; Voting; Conduct of Meetings; Subcommittees

- 5.1 A quorum of four (4) members shall be required to conduct business. Members of the Board physically present are counted to determine whether a quorum is present although they may abstain from voting affirmatively or negatively.
- 5.2 An affirmative vote of a majority of members voting on a question shall be required for adoption of the question. Members are expected to vote on matters before the Board, unless that member has recused himself/herself. Abstaining from a vote is discouraged, unless the issue pertains to business which took place when the member was absent, in which case that member is encouraged to recuse himself/herself so that an alternate may be seated in their place, or abstain, depending on the question before the Board.
- 5.3 When the vote on a question is evenly divided, the question shall be deemed to have been defeated.
- 5.4 The Board may reconsider any decision regarding an application, for good cause, provided it is within the statutory appeal period. This may be done by a member who voted on the prevailing side through a motion that specifies the reason for reconsideration. Upon successful passage of the motion, the board shall schedule a public hearing, with notice as provided in RSA 676:4,I(d), where they shall reconsider the issue that led to the reconsidered decision.
- 5.5 The Board may reconsider any other decision, for good cause, at the request of a member who voted on the prevailing side through a motion.
- 5.6 The Board reserves the right to change the order of the posted agenda. Any agenda items not heard at the meeting will be placed on the agenda for the next available Planning Board meeting.
- 5.7 Correspondence and presentations specific to an application before the Board are presented during the agenda item on that application.
- 5.8 To ensure timely inclusion among the Board's written materials, written or emailed statements submitted in lieu of a personal appearance should be received by the Community Development Department by noon the Friday preceding the applicable hearing or workshop date. The Board will attempt but cannot guarantee timely review and consideration of written or emailed statements received after that time.

- 5.9. If the Board believes that it does not have sufficient information to proceed with consideration of an application, including required application requirements, such that the Board is unable to make an informed decision, or if it is determined that the application does not comply with the zoning ordinance, the application shall be rejected by a majority vote of the voting members. The Clerk will provide the applicant with the written reason for rejection in accordance with NH RSA 676:3.
- 5.10 The Chair shall enforce such order and decorum as may be necessary for the sufficient conduct of the Board's business, guided by a desire to optimize public and Board input on matters before the Board. The Chair shall manage the discussion among Board members, the applicant, and the public. The Chair shall regulate discussion among Board members, but refrain from participating in the discussion of an issue until after all members have had an opportunity to discuss the issue.
- 5.11 The Chair shall set out procedural processes at the beginning of each meeting so that members of the public and Board are aware of the expectations for how to proceed. The Chair shall exercise discretion in stopping participation that is repetitive, not germane, or otherwise not of constructive assistance to the Board in addressing the matter at hand.
- 5.12 The Community Development Department Staff shall present the application material to the Board for review. The applicant shall be given the opportunity to present their application as well.
- 5.13 Board members and members of the public shall be recognized by the Chair before speaking on the plan. Members of the public shall address all comments and questions through the Chair.
- 5.14 When establishing subcommittees, the Board will define the roles, responsibilities, duties, membership, and duration of the subcommittees. All established subcommittees will follow the same requirements as the Planning Board that are outlined in NH RSA 91-A and Article 9 of these Rules of Procedure, in addition to providing the approved meeting minutes for posting on the Town web site. Non-Planning Board members may serve on Planning Board subcommittees; however, no Town employee may be appointed to serve on these subcommittees.

Article 6 – Site walks

- 6.1 A site walk is defined as a posted meeting of the Board at a location which is the subject of an application before the Board, where the visit is in the company of the applicant, their agents or employees and members of the public and involves going onto the property or visiting areas which are not customarily available for public inspection. This does not include a casual view of a site from adjoining public highways or other observations that can be made without entering on the property.
- 6.2 When the Board deems it necessary for the adequate consideration of an application, the Board shall schedule a site walk by the Board.

- 6.3 When the Board schedules a site walk for Board membership, it shall be posted as a meeting of the Board and meeting minutes shall be taken in accordance with RSA 91-A.
- 6.4 Members of the public are allowed to attend. The Chair has the authority to maintain decorum and order on a site walk just as at any other meeting of the Board.
- 6.5 An individual member should not visit an applicant's property at the applicant's invitation.
- 6.6 When the Board meets to consider an application after conducting a site walk, the Board shall disclose what they learned/observed while on the site walk at the location under consideration.
- 6.7 The Board should refrain from making decisions on an application while on a site walk. Any comments, motions or direction to an applicant should be made at the public hearing.

Article 7 - Joint Meetings with Other Land Use Boards

- 7.1 Joint meetings of the Planning Board and the ZBA, Historic District Commission, and the Conservation Commission shall be presided over by the Chair of the Planning Board.
- 7.2 A quorum of the membership of each body shall be required in order to conduct a joint meeting, as stated in Article 5.1.
- 7.3 Separate minutes shall be kept of all joint meetings by the Planning Board or its designee.
- 7.4 Presentation of applications shall follow the same presentation as that specified in each of the bodies' rules of procedure.
- 7.5 At the conclusion of the public hearing, the Planning Board receives the recommendations of the Conservation Commission, the vote of the ZBA, and/or the vote of the Historic District Commission. The Planning Board shall proceed to vote on the application.
- 7.6 A joint meeting may be requested in writing by the applicant at the time of application submission and shall be communicated by Community Development Department Staff to the Chairmen of the respective Boards.

Article 8 - Land Use Regulation Public Hearings; Workshops

- 8.1 The Board shall follow the statutory provisions for holding all public hearings on zoning amendments or changes in site plan/subdivision regulations.
- 8.2 In the case of zoning amendments or regulation changes proposed by the Board, the amendment will be presented by staff and/or Board members and the public will be invited to comment.

- 8.3 In voting on proposed regulation changes, zoning amendments, land sale, or road acceptances, the Board shall consider each separate item and vote on adoption or disapproval of each separate proposal at the conclusion of the presentations of that item.
- 8.4 In voting on zoning amendment proposals, the Board shall vote to recommend or to not recommend the amendment. If the Board is evenly divided, or if a motion to recommend fails to receive a majority vote, the amendment shall be not recommended. The notation to appear on the ballot shall be “Planning Board Recommends Voting No” or “Planning Board Recommends Voting Yes” followed by the numerical vote on such recommendation.
- 8.5 Workshop meetings of the Board shall be meetings to study presentations on or study one or more selected topics.

Article 9 - Standards of Conduct

- 9.1 The primary obligation of Board members is to serve the public interest, and to conduct themselves so as to maintain public confidence in the Planning Board and the conduct of its business.
- 9.2 Members shall not directly or indirectly solicit any gifts or accept or receive any gift (whether in money, services, loans, travel, entertainment, hospitality, premises or in some other form), under circumstances in which it could be reasonably inferred that the gift was intended to influence them in the performance of their duties or was intended as a reward for any recommendation or decision on their part.
- 9.3 To avoid conflict of interest, any member who may receive some private benefit from a public planning board decision must not participate in that decision. The private benefit may be direct or indirect, create a material personal gain or provide an advantage to relations, groups, or associations that hold a significant share of the official’s loyalty. An official with a conflict of interest must abstain from voting on the matter and leave the table and podium area when the Board members deliberate and vote on a matter.
- 9.4 A Board member must not disclose or improperly use confidential information obtained in the course of his duties for financial gains or to further a personal interest.
- 9.5 Notwithstanding the above restrictions, a Board member may, following recusing himself/herself from the Board, exercise his/her rights as a citizen and address the Board on the issue under review.
- 9.6 Ex parte communications (written or verbal communications from or to a Board member concerning a pending application) impair the procedural due process rights of interested parties and undermine public confidence in the Planning Board. Board members should refrain from initiating ex parte communications on any application. Any requests or inquiries by Board members should be made during public hearings or through appropriate town staff. Members receiving ex part

communications should refrain from responding (citing this section) and refer the party initiating the communication to the appropriate town staff. In appropriate circumstances, the town staff shall advise interested parties of the inquiry or attempted ex parte communication.

- 9.7 All Board members share a responsibility to enforce adherence to the standards or conduct herein. If a member believes that one or more members may either by intention or inadvertence be in violation of these standards, he/she shall call that fact to the attention of the Chair who shall in turn call it to the attention of the member in question. In the event of a dispute as to whether a member should or should not participate, the question shall be posed to the Board, as to whether the member in question should or should not participate. Such a vote shall be advisory and non-binding.

Article 10 – Capital Improvement Program (CIP)

- 10.1 The Planning Board, having adopted a Master Plan, is authorized by a vote at 1986 Town Meeting to prepare and amend a recommended program of municipal capital improvement projects per RSA 674:5.
- 10.2 The Board shall establish a permanent subcommittee to be known as the Capital Improvements Program (“CIP”) Subcommittee of the Planning Board, the purpose of which is to aid the Board of Selectmen in their consideration of the annual budget and fulfill the long-term capital needs of the town as defined in the Master Plan. The Planning Board will annually review the duties, roles, and responsibilities of the CIP Subcommittee and set the financial threshold for inclusion of capital projects.
- 10.3 The subcommittee shall develop a CIP, projected over a period of at least six years, in a manner deemed appropriate by the Planning Board. The subcommittee is authorized to meet with all municipal departments, agencies, authorities, and boards to develop a statement of all proposed capital projects to be undertaken during the terms of the program.
- 10.4 The subcommittee shall utilize the information obtained to formulate a draft CIP consistent with the goals and needs of the community and shall present the draft, with supporting documentation, to the Planning Board.
- 10.5 The subcommittee shall incorporate comments received from the Planning Board, and present the final draft CIP to the Planning Board for adoption after holding a public hearing for timely consideration by the Board of Selectmen to set the annual budget.
- 10.6 The subcommittee shall consist of the following members:
- One (1) Selectman appointed by the Board of Selectmen whose term shall be one (1) year. An Alternate may also be appointed for the term of 1 year to represent the Board of Selectmen if the regular member is unable to participate.

- One (1) School Board member appointed by the School Board whose term shall be one (1) year. An Alternate may also be appointed for a term of 1 year to represent the School Board if the regular member is unable to participate.
- Two (2) members of the Planning Board appointed by the Planning Board whose term shall be one (1) year. An Alternate may also be appointed for a term of 1 year to represent the Planning Board if one of the regular members is unable to participate.
- Three (3) members of the general public shall be appointed by the Planning Board, with staggered terms of three (3) years each, such that one (1) member is appointed each year. To maximize public participation in the CIP process, “members of the general public” shall be defined as residents not currently serving as a Selectman, School Board member, or land use Board member. In the event such a member of the general public shall become, during the period of appointment, a Selectman, School Board Member or member of any land use board, he or she shall be disqualified from further participation and a new “Member of the general public” shall be appointed by the Board. An Alternate may also be appointed for a term of 1 year to participate if one of the regular members is unable to participate.
- It is recommended that these appointments take place no later than the first scheduled meeting in July.

Article 11 – Design Review Subcommittee

- 11.1 The Board, having adopted Design Review Regulations in accordance with RSA 676:4 II(b), is authorized to establish a permanent Design Review Subcommittee.
- 11.2 The Subcommittee shall consist of 5 members to be appointed by the Board with staggered terms of three (3) years each.
- 11.3 The purpose the Design Review Subcommittee is to review all development applications, as described in the Scope of the Design Review Regulations.
- 11.4 The Subcommittee is to provide advisory comments to the Board as to the application’s conformance with the Design Review Regulations and whether or not the Subcommittee supports the granting of any waivers that are being requested.

Article 12 – Regional Planning Commissions:

- 12.1 The Planning Board shall provide the Board of Selectmen with nominations of representatives to the regional planning commission in accordance with RSA 36:46 III. The Town of Windham is entitled to 3 representatives on the commission. Initial appointments shall be for 2, 3, and 4 years with vacancies being filled for the remainder of any unexpired term in the same manner as the original appointments. The Planning Board may also nominate alternate representatives to the Commission.

Adopted by the Windham Planning Board on June 28, 1989

Amended – December 9, 1992

Amended – April 7, 1993

Amended – March 17, 1999

Amended – August 4, 1999

Amended – April 26, 2000

Amended – June 13, 2007

Amended – October 7, 2009

Amended – June 20, 2012

Amended – November 14, 2012

Amended – April 29, 2015

Amended - March 23, 2016

Amended – July 13, 2016